

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : OFFICE OF PETITIONS
Engelhardt et al. : Ms. Nancy Johnson
Application No. 08/182,621 : Senior Petitions Attorney
Filed: January 13, 1994
Atty Docket No. ENZ-52

MAIL STOP PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CLARIFICATION

Dear Commissioner:

This is a Request for Clarification relative to concurrent Office actions issued in the above-captioned application.

Petitioner respectfully urges that no fees are due for this clarification request. Should the PTO determine, however, that any fees are required to have Clarification issued, including any extension of time fees, the PTO is authorized to charge Deposit Account No. 50-2929, making reference to Docket Number J10006.

Background

A first Order to Show Cause Why Decisions Reviving Applications Should not be Vacated (OTSC) was mailed on July 2, 2008 in the present application, setting a two month extendable period for response. In Response to the OTSC, a Request to Vacate this OTSC and a Request to Expunge Confidential information from Public Records were filed on November 11, 2008, along with a Petition for Expedited Consideration thereof. On April 3, 2009, the Office granted the Request to Expunge the Confidential Applications from the OTSC, determined that issuance of a substitute redacted OTSC (page 5) was in order and dismissed the Request to Vacate the OTSC (page 8). The April

3, 2009 Decision set a two month extendible period for response. On June 4, 2009, a second OTSC was issued setting a two month non-extendible period for response.

Clarification Request

The above-mentioned April 3, 2009 decision set a two month extendible period for filing a response to the July 2, 2008 OTSC. In view of the grant of Petitioner's Request to Expunge Confidential Applications from the July 2, 2008 OTSC, the same decision determined that the July 2, 2008 OTSC would be expunged and that a substitute redacted OTSC would issue. Because the July 2, 2008 OTSC is expunged, it would appear that any deadlines set in that OTSC are no longer controlling. Furthermore, it is not clear what is the effect of the dismissal of April 3, 2009, because that decision dismissed Petitioner's request to have a PTO order vacated, which Order is now expunged according to the second Order issued on June 4, 2009. Therefore, with the mailing of the June 4, 2009 redacted OTSC, it is unclear as to whether Petitioner is concurrently bound by (i) the two month extendible period for response set forth in the April 3, 2009 (i.e., November 3, 2009 maximum deadline) decision, or (ii) the 2 month non-extendible period for response set forth in the June 4, 2009 OTSC (i.e., August 4, 2009 maximum deadline).

Additionally, Petitioner submits that the June 4, 2009 OTSC does not appear to be a substitute redacted copy of the July 2, 2008 OTSC. A substitute redacted copy of the July 2, 2008 OSTC would be one with the same content as the one issued previously, with exception of the confidential matter determined to be expunged. However, the June 4, 2009 OTSC sets a two month period for response that is non-extendible, in contrast to

the two month extendible period set in the OTSC mailed on July 2, 2008. It is well settled in the regulations and the MPEP that applications are not to be subjected to different time periods running at the same time.

Due to the above-mentioned inconsistencies (as well as inconsistencies in time periods set in this application as compared to other applications subject to a similar OTSC), Petitioner respectfully requests that the PTO set a single time period for requesting Reconsideration, which period is to run from the date of the issuance of a clarification by the Office. Early notification is respectfully requested.

Respectfully submitted,
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